APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,047	04/22/2002	Johannes Schellmann	98580P078	6152

7590   01/30/2006

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard 7th Floor
Los Angeles, CA 90025-1026

EXAMINER
KRAMER, JAMES A

ART UNIT	PAPER NUMBER
3627	

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 November 2005*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *28-54* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *28-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 28-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claim 28 appears to be directed both a "process" and a "machine," and therefore embraces or overlaps two different statutory classes of invention. It is therefore unclear whether Applicant(s) are claiming a process or a machine. See MPEP §2173.05(p) II, *Ex Parte Lyell*, 17 USPQ2d 1548 (B.P.A.I. 1990), and *Holdings LLC v. Amazon.com Inc.*, 77 USPQ2d 1140 (Fed. Cir. 2005).

Examiner specifically points to the first two lines of the claim, "A method of recording and processing data concerning business transactions a computer system having at least one processing unit . . ." This language renders the claim unclear as to whether Applicant intends to claim a method or a computer system.   However, by virtue of the fact that claims 29-54 recite, "the method" Examiner will read the claims as a method.   Action should still be taken clarify the language of claim 28.

In addition to the arguments made above Examiner further finds the format of independent claim 28 indefinite.   Specifically, the claim lacks a proper preamble and transitional

phrase (see MPEP 608.01(i)-(p) and 2111.02). While no set statutory form exists for claims

Examiner believes in the present case that the lack of a preamble magnifies the issues associated

with the hybrid status of the claim.

As noted above the claim will be interpreted as a method or process claim. As such the

lack of a proper preamble makes determination of patentable weight nearly impossible. For

instance, lines 6-26 of claim 1 include structural wherein clauses. As these wherein clauses

appear to be either a) drawn to an apparatus claim or 2) part of the preamble Examiner cannot

determine how much patentable weight to afford them. For this Office Action these limitations

will be given no patentable weight.

Further the wherein clause starting on line 27, will be taken as an open-ended transitional

phrase.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 28-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Sampson.

Sampson teaches a method and electronic apparatus for performing bookkeeping wherein

the data concerning a business transaction specify its type and time and values of the business

transaction which are associated with the time and indicate changes, and associated with each

business transaction are predetermined accounts in which the values of the business transaction

should effect a corresponding change in account values (see for example column 5, lines 9-19).

Sampson further teaches wherein at least one ledger structure is provided which has a

store structure for ordered storage of book data sets, each book data set being associated with a

business transaction, wherein each book data set has associated with it a record identifier which

unambiguously characterizes the ledger structure and the book data set in the ledger structure and

each book data set has an account identifier, wherein the account identifier identifies at least two

selected accounts which depend upon the type of business transaction, one of the at least two

selected account being a book account with which the ledger structure is associated, and the

further of the at least two selected accounts being cross-accounts associated with the book

account (see for example column 6, lines 7-26).

Examiner notes that book data sets are interpreted as chart of accounts which defines the

ledger structure for the bookkeeping utilizing a record identifier for each journal entry (or partial

entry data sets as claimed by Applicant) and an account identifier which identifies at least two

accounts which are affected by the transaction.

Sampson teaches wherein for each account and account object is formed, each account

object having an identifier data structure and a store structure for ordered storage of partial entry

data sets and each partial entry data set of the store structure contains the record identifier f a

book data set associated with it as well as at least one value of a business transaction which

should effect a corresponding change of account values (see for example column 6, lines 40-49)

Examiner once again notes that Applicant's partial entry data sets are interpreted as

journal entries. As such as the journal entries are read the information is processed and saved

into accounts objects or database containers for storage of account information. This then effects

a corresponding change in the account values (or totals).

Sampson teaches wherein in the recording of data concerning a business transaction the

following steps are carried out:

(a) selecting a ledger structure, an account object of a book account with which the selected
ledger structure is associated, and at least one account object of a cross-account as a
function of the type of business transaction and reading in of the data concerning the
business transaction;

(b) generating a book data set and at least two partial entry data sets from the read-in data
and ordered storage of the book data set is stored in order in the selected ledger structure;

(c) sending of the at least two partial entry data sets to the appertaining account objects of the
book account and of the cross-account or the cross-accounts, the partial entry data sets
containing the values of the business transaction which should effect corresponding
changes of account values; and

(d) receiving the partial entry data sets are received in the account objects and ordered
storage of the partial entry data sets in the appertaining store structures.

(see for example column 11, lines 24-43).

Sampson teaches wherein the account objects each have at least one collective store

structure and wherein each collective store structure comprises a plurality of data storage fields,

each data storage field being associated with a time interval having a start time and an end time

with in a calendar year and storing a sum value and where in each sum value is produced from a

start value and addends (see for example column 8, lines 50-60 and column 12, lines 44-54)

Examiner notes that a collective store structure comprising a plurality of data storage

fields is interpreted as a database structure, clearly taught by Sampson. Further associating these

fields with an beginning and end time in order to sum values is interpreted as determining totals

for a predetermined time (see for example column 5, lines 10-15). In other words this is standard

end of month bookkeeping for a journal and a ledger closing.

Sampson teaches the data storage fields correspond to both a calendar month and a

calendar day and completely cover the time interval of a calendar year. Examiner notes that this

is inherently part of a database containing journal entries as well as part of any standard

bookkeeping general ledger process. In other words, the system must include data fields to cover

the calendar year, as there would be no other way to accurately track the journal entries based on

when they occur.

Sampson teaches the start values of the data storage fields can preferably be set to (i)

equal to zero, (ii) to a sum value of a data storage field of the same collective store structure or

(iii) to the sum value of data storage field of another collective store structure of the account

object (see for example column 8, lines 50-60). Examiner notes that as the claim is presented in

the alternative, Sampson need only teach one of the three alternative to anticipate the claim.

Sampson teaches setting of the addend to equal to a value of the business transaction so that the sum value corresponds to a balance (see for example column 8, lines 50-60). Examiner notes that as the steps of claim 33 are presented in the alternative, Sampson need only teach one to anticipate the claim.

Sampson teaches wherein the store structure for ordered storage of the book data sets of the ledger structure and the store structures for ordered storage of the partial entry data set of the account objects are preferably sorted or respectively indexed lists or tables which are sorted or indexed according to the serial number of the entry of the data sets or according to the time of the business transaction (see for example column 5, lines 9-19 and column 6, lines 7-26).

Sampson teaches wherein the identifier data structure has a character string and/or number which unambiguously dentures the account object (see for example column 6, lines 7-26).

Sampson teaches wherein the identifier data structures of the account objects of the book account each contain an indication of the cross-accounts which can be associated with them, wherein in step (a) the at least one account object of a cross-account is selected as a function of the indication of the cross-accounts which can be associated with the book account (see for example Figs 1-3). Examiner notes that in double-entry accounting there includes two entries (e.g. a debit and a credit). The matrix presented in the figures shows the indication of cross-accounts. Further, Figure 3 shows in the indication of which accounts are affected within entry.

Sampson teaches analysis diagrams which have positions with position values, wherein

changes of account values effect changes of predetermined position values, wherein for at least

one selected position of an analysis diagram an analysis object if formed which has an identifier

data structure and at least one collective store structure, wherein the makeup of the collective

store structure of the analysis object corresponds to the makeup of the collective store structure

of an account object, wherein the collective store structure of the analysis object the addends are

a predetermined function of those changes of account values which are effect on the basis of

business transactions of which the time falls within the time interval, wherein the recording of

the data of a business transaction the following steps are carried out:

(e) generation of at least one update data set, which is determined for a selected position of
    an analysis diagram from the values of the business transaction contained in a partial
    entry data set, in at least one account object of those account objects which have received
    a partial entry data set, and sending of the update data set to at least one analysis object
    associated with the account object;

(f) reception of the update data set in that at least one associated analysis object and updating
    of the collective store structure of the analysis object by adding up the addend formed
    from the values contained in the update data set in the data storage fields corresponding
    to the time of the appertaining business transaction.

Examiner notes that position and position values as defined by Applicant represents fields

and field values (see Applicant's specification page 28 lines 1-2). Further an analysis diagram is

taught by Sampson for example in figures 3 and 11. These figures show fields and field values

used to analyze the data contained in the data set and account objects based on the predetermined

time interval. Based on the value of the transaction of each entry in the fields (analysis diagram)

the account objects are updated to represent a current balance (adding addends to the balance).

Sampson further teaches the analysis diagrams have positions of a lowest level with which predetermined collective store structures of predetermine account objects are associated, wherein as a function of an output command indicating an analysis time in a financial year a graphic output of an analysis diagram is generated via output means (see for example column 11, lines 44-56).

Sampson teaches a check of the partial data sets to at least establish that a total of predetermined values of the data concerning a business transaction is equal to zero. Examiner notes that this amounts to reconciling the debits and the credits to ensure the books can be balanced, see for example Sampson column12, lines 27-33.

Examiner further notes that the system and method of Sampson includes account objects for data that is planned (see predetermined chart of accounts) as well as data pertaining to transactions that have already concluded.

Response to Arguments

Applicant's arguments filed 11/15/05 have been fully considered but they are not persuasive.

Examiner would like to apologize for any inconvenience this additional non-final action might cause on Applicant. While the policy of the Office remains compact prosecution,

Examiner believes that an additional action was necessary in order to clarify the record with respect to claim interpretation.

Specifically, Examiner believes the Sampson anticipates Applicant's claimed invention when the claims are given broadest reasonable interpretation. As such, to prove a clearer record with respect to Examiner's broadest reasonable interpretation of the claims Examiner believed it necessary to include a rejection under 35 USC 112. Based on this newly added rejection this Office Action was required to be made non-final. Applicant is reminded that this does not preclude Applicant from filing a Notice of Appeal (see MPEP 1205).
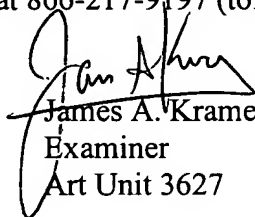
With respect to Applicant's arguments, Examiner believes that the newly added rejection under USC 35 112 makes the record clear. Once again Examiner notes that based on the broadest reasonable interpretation of the claims, as laid out in the Office Action Sampson anticipates the present claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272 6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Kramer
Examiner
Art Unit 3627

jak